

**HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
October 17, 2013**

AMENDED

Members Present

Bryan Provencal, Acting Chairman
Ed St. Pierre, Clerk
Jack Lessard (Alternate)
Tom McGuirk
Bill O'Brien

Others Present

Joan Rice, Secretary

Chairman Provencal called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was said.

Board members were introduced.

PETITION SESSION

40-13...The Petition of JCM Capital Management LLC/Happy Hampton, Inc./Raymond G. Blondeau/Chat, Chew & Play LLC through Green & Company Building and Development Corp. for property located at 5 Ashworth Ave., 275 Ocean Blvd., 5 Ashworth Ave. Rear, 253 Ocean Blvd., 9 Ashworth Ave. and 7 Ashworth Ave. seeking relief from Articles 4.1.1, 4.4, 4.5.1, 4.5.2, 8.2.3, 8.2.4 and 8.2.6 to construct a 56 unit 8 level, multi-family dwelling above approximately eight commercial units where variances are required for height, density and setbacks. Each unit would have two bedrooms, each with its own bathroom, each with its own entrance either from the other unit or from the hallway but combining six lots (as part of planning board review) having a combined area of 1.33 acres. This property is located on Map 282, Lots 85, 87-0001, 87-0002m 108, 83 and 84 and in a BS Zone.

Attorney Peter Saari, Casassa & Ryan, said a lot of work has been done on the issue of height. Height has been changed from just short of 100 feet to 89 feet. The north side of the building which previously was little more than a flat wall with a few windows now has layered textures designed to create an appealing view at a prominent gateway to the beach. Work has been done to give the building more character. Attorney Saari and Attorney Tim Phoenix, co-counsel, went through the five criteria and said they felt they had been met.

Questions from the Board

Mr. St. Pierre asked if the balconies on the north side of the building were for show only. Joe Coronati, Jones & Beach, replied that they were.

Mr. St. Pierre asked what the closest number in front from the drip edge would be. Mr. Coronati replied that the entire front is three feet off the property line.

Hampton Zoning Board of Adjustment

October 17, 2013

Page 2

Mike Witcher, Witcher Builders & TW Design, addressed the concern that the building would cast shadow on the beach. He presented a shadow study showing shadows cast at various times of the day and various times of the year. He said there will not be much difference from what we have today.

Attorney Saari said if the height of the building were decreased, value would dramatically go down because of no views. The building would cost as much to build, but there would be no return on investment.

Mark Fougere, Fougere Planning & Development, said they feel this investment will create a catalyst for the beach. Hampton is the only place that has both a nice beach and good residential areas. It deserves a unique building. The building height has been reduced by 10% from what was originally presented. Mr. Fougere pointed out the option to rent out units will bring in more tax revenue to the Town. Mr. Fougere also noted that improving overnight lodging on the beach will bring in more visitors.

Mr. O'Brien said if it is a rental property its assessed value is higher. Can an owner rent it out on his own? Attorney Saari said the assessor must be informed if an owner rents out all or part of the unit. Mr. McGuirk said two-families are assessed at a higher rate so this should all be taxed at the higher rate. Richard Green said this would be a question for the Assessor.

Attorney Saari said this project is a perfect example of what the beach needs. If these developers go away there is no one else and the lot will remain empty. Attorney Tim Phoenix said he believed they have adequately addressed Hardship.

Michael Green said he has been a resident of Hampton for 17 years. He said Green & Co. has built many homes in Hampton and they are now willing to invest in the beach. They are looking to put up a \$29 million building. No one else is stepping up willing to do such an investment. This building will produce \$500,000 in tax revenue.

Comments from the Audience

Charlie Preston, 47 Glade Path, said this project is 50% over the law as it now stands. This is a big jump. He said he felt the restriction on building height should stand until all others have sewer service. This project should go forward to the voters.

Anne Russell came forward. She said change is always very difficult. Hampton Beach has changed a lot in the last few years. The Town and State have spent large amounts of money to improve the beach. The Zoning Board suggested changes not only in height but in

aesthetic value. The developers made revisions. This lot has been vacant since the fire and has not encouraged tourism. There is much appeal to this project.

Hampton Zoning Board of Adjustment

October 17, 2013

Page 3

Mary-Louise Woolsey, 148 Little River Road, came forward. She said she did not believe there was local New England flavor in this project. Ms. Woolsey said she agreed with Mr. Preston that the law is now 50 feet and the law is the law. She said she would hope for a postponement until the March vote.

Chuck Rage, 121 Ocean Blvd., came forward. Mr. Rage said he is looking at an empty lot. There are now some developers who want to fix this. This project moves the beach forward. This petition needs to be approved.

John Gebhart, 4 Bailey Ave., came forward. He said he has doubts about whether this is what should be done at the beach. He said he is not in favor of the project.

Robert Preston, Hampton Beach Area Commission, said he is happy to see the beach growing. This particular project could be a continuation of what is happening. Mr. Preston said he did not think this project should be denied or postponed. There is a small window of time to do this. The biggest problem at the beach is the lack of quality accommodations. This project is the future and will bring a better clientele to the beach.

Richard Nichols came forward. He said this is probably the most significant variance that has been requested since he has been a resident. He said he is opposed to the granting of this variance. Changes like this should go to the voters.

Attorney Saari said time is of the essence as there are issues with sellers, banks, interest rates, etc. which make waiting until March unfeasible.

Tim Spooner, Exeter, said he owns property on Boars Head and believes in the rejuvenation of the beach. This project makes a lot of sense. The petitioners' presentation was compelling.

June White came forward. She said this building does not fit in New England and especially on the beach. She said she is opposed to the project.

Fred Rice, 15 Heather Lane, said the job of the Zoning Board is to grant variances when it is appropriate and when it is dictated by unique circumstances. This project cannot wait for a warrant article on height. Even if such a warrant article was approved, there would still be a need for a variance. The Board has been given a great presentation for a very unique building. This is the only developer who has had a plan. All neighbors and abutters support this project. If this variance is not granted that lot is destined to be a vacant lot for several years or at best will have more low end T-shirt shops like we have now. Sewer in the west end has nothing to do with building height at the beach, and a developer at

Hampton Beach should not be held hostage to whether the voters decide to approve sewer. Mr. Rice said there is going to be a 6% increase in taxes. This is an opportunity to have a

Hampton Zoning Board of Adjustment

October 17, 2013

Page 4

good looking building built by a reputable developer. It gives the Town tax revenue in a difficult time.

Glen Farrell, 6 Witton Street, said he has heard no factual information from Green & Co. The shadow study is incorrect. Mr. Farrell said he is opposed to the project.

Ray Blondeau came forward. Mr. Blondeau said the Zoning Board can make any decision to grant a variance that makes sense.

Richard Green said when Green & Co. built the Sea Spray they asked for what they needed to make it work. They are doing the same thing here. If one floor is removed, the project will go negative. Time has run out with the sellers. If this project is not done now, it will not happen.

Paul Sullivan, 189 High Street, said it should be left up to the voters.

Back to the Board

Mr. O'Brien said he would like to hold off on this project.

Mr. McGuirk said he likes a lot of things about this project, but 75 feet is where he is comfortable.

Mr. St. Pierre said the issues of empty lots and tax increases would not affect his decision. Perhaps some reconfigurations could be made to reduce the height. Mr. St. Pierre said he did not feel comfortable in granting this variance.

Mr. O'Brien discussed the assessed value and said he felt it did not warrant the extra story. Richard Green said assessed value is irrelevant for what they will pay for the property. Mr. O'Brien said he felt this project is contrary to the public interest and not in the spirit of the ordinance.

Chairman Provencal said if the voters approve a height limit of 75 feet, asking for 89 feet might be okay, but that is not what it is now. Chairman Provencal said he did believe the developers when they say the project will not happen if it is not done now. This project is what is good for the beach and there is no chance to have anything like it if the variance is not granted.

Moved by Mr. St. Pierre, seconded by Mr. O'Brien, to deny Petition 40-13.

Vote: 2 yes, 0 no, 3 abstentions (McGuirk, Lessard, Provencal). This motion did not pass.

Hampton Zoning Board of Adjustment
October 17, 2013
Page 5

Moved by Chairman Provencal, seconded by Mr. McGuirk, to grant Petition 40-13.

Chairman Provencal asked the Board if the five criteria had been met. Mr. O'Brien, Mr. McGuirk, Mr. St. Pierre, and Mr. Lessard said the criteria had not been met. Chairman Provencal said he felt they had been met.

Vote: 1 yes, 4 no (Lessard, McGuirk, O'Brien, St. Pierre). Motion failed.

41-13...The petition of Sonja Starmer for property located at 6 Ballard St. seeking relief from Article 4.5.2 to move a cottage onto lot 50 from lot 33. This property is located on Map 280, Lot 50 and in an RCS Zone.

Sonja Starmer, petitioner, came forward. She said she wanted to move a cottage from one lot to another. Ms. Starmer went through the five criteria and said she felt they had been met.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. O'Brien, seconded by Mr. McGuirk, to grant Petition 41-13.

Chairman Provencal asked the Board if they felt the five criteria had been met. All members agreed that they had.

Vote: 5 yes, 0 no. Motion passed unanimously.

42-13...The petition of Casa Dela Vista Properties LLC for property located at 48 Dumas Avenue seeking relief from Articles 4.5.1, 4.5.2 and 4.5.3 to raze existing non-conforming dwelling and rebuild new home. This property is located on Map 267, Lot 39 and in the RA Zone.

Henry Boyd, representing Tim and Betty Spooner, came forward. Mr. Boyd said the petitioners wish to build a new home on the site of an existing non-conforming dwelling.

Mr. Boyd went through the five criteria and said he felt they had been met. Ms. Spooner presented letters from abutters approving of the project.

Hampton Zoning Board of Adjustment

October 17, 2013

Page 6

Questions from the Board

Chairman Provencal said he liked this project.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. O'Brien, seconded by Mr. McGuirk, to grant Petition 42-13.

Chairman Provencal asked the Board if they felt the five criteria had been met. All members agreed that they had

Vote: 5 yes, 0 no. Motion passed unanimously.

43-13...The petition of Christine Russell for property located at 349 Ocean Blvd. seeking relief from Articles 1.3 and 8.2.3 to add a second floor deck. This property is located on Map 275, Lot 56 and in the BS Zone.

At this time Chairman Provencal stepped down and Mr. O'Brien stepped up as Acting Chairman.

Christine Russell and Eliot Beals came forward. Mr. Beals went through the five criteria and said he felt they had been met.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. McGuirk, seconded by Mr. St. Pierre, to grant Petition 43-13.

Chairman O'Brien asked the Board if they felt the five criteria had been met. All members agreed that they had.

Vote: 4 yes, 0 no. Motion passed unanimously.

Hampton Zoning Board of Adjustment
October 17, 2013
Page 7

At this time, Mr. O'Brien stepped down as Acting Chairman and Mr. Provencal stepped up as Acting Chairman.

44-13...The petition of Robert & Mary Jane Solomon for property located at 16 Nor'East Lane seeking relief from Articles 1.3 and 4.5.3 to rehabilitate existing deck. This property is located on Map 099, Lot 007 and in the RA Zone.

Henry Boyd, representing the petitioners, came forward. He said they want to rehab their deck by basically straightening it out. Mr. Boyd went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. St. Pierre asked if the Planning Board and the Conservation Commission have approved this project. Mr. Boyd said they have.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. O'Brien, seconded by Mr. McGuirk, to grant Petition 44-13.

Chairman Provencal asked the Board if they felt the five criteria had been met. All members agreed that they had.

Vote: 5 yes, 0 no. Motion passed unanimously.

Chairman Provencal said Petitions 45-13 and 46-13 would be heard at a later date.

Adjournment

Moved by Chairman Provencal, seconded by Mr. McGuirk, to adjourn the meeting at 10:42 p.m.

Vote: 5 yes, 0 no. Motion passed unanimously.

Respectfully submitted,

Joan Rice
Secretary